

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY APRIL 5, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 78

**Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Bass, Chan, Evans, Frommer,
Gordon, and Koretz)**

January 3, 2005

An act to add Division 113 (commencing with Section 150000) to the Health and Safety Code, relating to pharmacy benefits management.

LEGISLATIVE COUNSEL'S DIGEST

AB 78, as amended, Pavley. Pharmacy benefits management.

Existing law provides for the regulation of health care benefits.

This bill would define the term “pharmacy benefits management” as the administration or management of prescription drug benefits. The bill would also define the term “pharmacy benefits manager” as an entity that performs pharmacy benefits management. The bill would require a pharmacy benefits manager to make specified disclosures to its purchasers ~~and prospective purchasers~~, including specified information about the pharmacy benefit manager’s revenues. The bill would also establish certain standards and requirements with regard to pharmacy benefits management contracts.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 113 (commencing with Section 150000) is added to the Health and Safety Code, to read:

DIVISION 113. PHARMACY BENEFITS MANAGEMENT

150000. For purposes of this division, the following definitions shall apply:

(a) "Labeler" means any person who receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and who has a labeler code from the federal Food and Drug Administration under Section 207.20 of Title 21 of the Code of Federal Regulations.

(b) "Pharmacy benefits management" is the administration or management of prescription drug benefits. Pharmacy benefits management shall include all of the following: the procurement of prescription drugs at a negotiated rate for dispensation within this state, the processing of prescription drug claims, and the administration of payments related to prescription drug claims.

(c) "Pharmacy benefits manager" is any entity that performs pharmacy benefits management. The term does not include a health care service plan or health insurer if the health care service plan or health insurer offers or provides pharmacy benefits management services and if those services are offered or provided only to enrollees, subscribers, or insureds who are also covered by health benefits offered or provided by that health care service plan or health insurer, nor does the term include an affiliate, subsidiary, or other related entity of the health care service plan or health insurer that would otherwise qualify as a pharmacy benefits manager, as long as the services offered or provided by the related entity are offered or provided only to enrollees, subscribers, or insureds who are also covered by the health benefits offered or provided by that health care service plan or health insurer.

(d) "Purchaser" is any entity that enters into an agreement with a pharmacy benefits manager for the provision of pharmacy benefit management services.

1 150001. (a) The contract entered into between the pharmacy
2 benefits manager and the purchaser shall include both of the
3 following:

4 (1) A disclosure in writing of any fees to be charged for drug
5 utilization reports requested by the purchaser.

6 (2) The terms of confidentiality for any information received
7 by the purchaser pursuant to subdivision (b).

8 (b) Except as provided in Section 150002, a pharmacy benefits
9 manager shall provide all of the following information no less
10 frequently than once each year and, at the request of the
11 purchaser, within 30 days of receipt of the request by the
12 purchaser:

13 (1) The aggregate amount, for a list of drugs to be specified in
14 the contract, of all rebates and other retrospective utilization
15 discounts that the pharmacy benefits manager receives, directly
16 or indirectly, from pharmaceutical manufacturers or labelers in
17 connection with the purchasing or dispensing of prescription
18 drugs for individuals receiving under the purchaser's contract.

19 (2) The nature, type, and amount of all revenue the pharmacy
20 benefits manager receives, directly or indirectly, from each
21 pharmaceutical manufacturer or labeler for any other products or
22 services provided by the pharmacy benefits manager with respect
23 to programs that the purchaser contracts with the pharmaceutical
24 benefits manager to provide.

25 (3) Any prescription drug utilization information requested by
26 the purchaser relating to utilization by the purchaser's enrollees
27 or aggregate utilization data that is not specific to an individual
28 consumer, prescriber, or purchaser.

29 ~~(e)~~

30 (4) Any financial arrangements with prescribing providers,
31 medical groups, individual practice associations, pharmacists, or
32 other entities that are associated with activities of the pharmacy
33 benefits manager to encourage formulary compliance or
34 otherwise manage prescription drug benefits.

35 ~~(d)~~

36 (5) Any financial arrangements related to the provision of
37 pharmacy benefits management for the purchaser that exist
38 between the pharmacy benefits manager and any brokers,
39 consultants, consulting companies, or other intermediaries.

1 150002. (a) A pharmacy benefits manager is not required to
2 make the disclosures required in Section 150001 unless and until
3 the purchaser agrees in writing to maintain the disclosed
4 information as confidential proprietary information. The
5 agreement may provide for equitable and legal remedies in the
6 event of a violation of this confidentiality provision. The
7 agreement may authorize the purchaser to disclose the
8 confidential proprietary information to persons or entities with
9 whom the purchaser ~~or prospective purchaser~~ contracts to
10 provide consultation regarding pharmacy services and may
11 require those persons or entities to treat the information as
12 confidential proprietary information.

13 (b) For purposes of this section, “proprietary information”
14 includes trade secrets and information on pricing, costs,
15 revenues, taxes, market share, negotiating strategies, customers,
16 and personnel held by a pharmacy benefits manager and used for
17 its business purposes.